

**IOWA DEPARTMENT OF NATURAL RESOURCES  
ADMINISTRATIVE CONSENT ORDER**

**IN THE MATTER OF:**

**CITY OF OSCEOLA  
NPDES Permit #20-38-0-02**

**1<sup>st</sup> AMENDED ADMINISTRATIVE  
CONSENT ORDER  
NO. 2010-WW-09-A1**

TO: City of Osceola  
Ty Wheeler  
City Administrator  
PO Box 465  
City Hall  
Osceola, IA 50213

**I. SUMMARY**

This 1<sup>st</sup> amended administrative consent order (Amended Order) is entered into between the City of Osceola (Osceola) and the Iowa Department of Natural Resources (DNR) for the purpose of revising the compliance schedule contained in administrative consent order No. 2010-WW-09 for the completion of sanitary sewer collection system improvement for the Osceola sanitary sewer collection system. The parties have agreed to the provisions below.

Any questions regarding this Order should be directed to:

**Relating to technical requirements:**

Tom Atkinson, Environmental Specialist  
DNR Field Office #5  
401 SW 7<sup>th</sup> Street, Suite 1  
Des Moines, Iowa 50309  
Phone: 515-725-0268

**Relating to legal requirements:**

Jon Tack, Attorney for the DNR  
Iowa Department of Natural Resources  
502 E. 9<sup>th</sup> Street  
Des Moines, Iowa 50319  
Phone: 515-281-8889

**II. JURISDICTION**

This Amended Order is issued pursuant to the provisions of Iowa Code section 455B.175(1), which authorizes the Director to issue any order necessary to secure compliance with or prevent a violation of Iowa Code Chapter 455B, Division III, Part 1 (wastewater) and the rules adopted or permits issued pursuant to that part, and Iowa Code section 455B.109 and 567 Iowa Administrative Code (IAC) Chapter 10, which authorize the Director to assess administrative penalties.

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**III. STATEMENT OF FACTS**

The DNR and Osceola agree to the following statement of facts:

1. – 9. Paragraphs 1 through 9 of administrative consent order No. 2010-WW-09 are hereby incorporated by reference into this Amended Order.

10. In addition to the work required by the prior order, Osceola has undertaken multiple waste water infrastructure projects since 2010. In compliance with the order, Osceola conducted the required lateral line inspections and required the elimination of clear water connections. Osceola has instituted a time of transfer inspection requirement that also leads to the elimination of clear water connections.

11. Since 2010, Osceola has inspected several areas of the wastewater collection system and found that severe voids, breaks and blockages exist in the public waste water lines. At this time the DNR and Osceola agree that time and resources would best be focused upon inspection and repair of the public waste water collection lines, rather than the elimination of additional clear water connections. This Amended Order is being issued to allow for this change in focus.

**IV. CONCLUSIONS OF LAW**

The DNR and Osceola agree that the following conclusions of law are applicable to this order:

1. Pursuant to 567 IAC 63.6(1), bypasses from any portion of a treatment facility or from a sanitary sewer collection system designed to carry only sewage are prohibited. The above-mentioned facts indicate that Osceola can not comply with this requirement without further system improvements. Osceola is undertaking such improvements.

**V. ORDER**

By the execution of this Amended Order, the DNR orders and Osceola agrees to the following schedule (Revisions are in **bold** and underlined):

1. By August 1, 2010, the City shall initiate a footing drain removal program in the northwest and north east parts of the City (per p. 5-1) of the Facility Plan). **Satisfied.**

2. Flow monitoring shall be conducted annually, as needed, to ensure I/I within the collection system is adequately assessed and addressed.

3. By December 31 of each year, the City is required to submit a progress report summarizing actions taken during the year, including flow monitoring updates, repairs made, pipes lined, repaired or replaced, number and date of service lines inspected and either

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confirmed ok or date disconnected, and amount/location/date/cause of bypasses that occurred during the year.

4. (a) Osceola has undertaken efforts to ensure that private footing drains and other clear water connections to private service lines are investigated, identified and removed from the Osceola collection system. Osceola shall continue to investigate and identify private clear water connections to private sewer lines, tributary to public sewers with the Delaware and North Main Pumping Station basin areas being the initial area of focus. The City shall require residents within the Delaware and North Main Pumping Station basin areas with private clear water connections to remove the connections or pay a substantial monthly penalty until the removal is completed. **Remaining former requirements of paragraph #4 related to the private lateral inspection program have been deleted.**

**(b) Beginning no later than May 1, 2014, Osceola shall inspect sanitary and storm sewer collection systems in the downtown business district. Deficiencies identified during the inspection shall be addressed as necessary to facilitate compliance with Paragraph V.5**

5. By December 31, 2015, Osceola shall eliminate all bypasses from the Osceola wastewater collection system and shall achieve compliance with rule 63.6(1).

6. By December 31, 2015 all identified private footing drains and other clear water connections to private sewer lines Delaware and North Main Pumping Station basin areas shall be removed or shall be subject to a substantial monthly penalty for failure to remove such connections. All other identified private footing drains or other clear water connections in other areas of Osceola shall also be subject to any monthly penalty imposed by Osceola.

7. By December 31, 2015, the City shall adopt and enforce an ongoing clear water prohibition ordinance, that includes penalties for systems found to be illegally connected to the City sanitary wastewater system. The City shall cause houses not inspected prior to December 31, 2015 to be inspected for private footing drains or other clear water connections as a condition of a Real Estate sale, provided this provision has been adopted and is legally enforceable by that date. Osceola shall include information about the implementation and results of the inspection and disconnection program in the annual progress report.

8. Osceola shall pay a stipulated penalty of \$1,000 per month for each month in which Osceola fails to meet any the deadlines contained in paragraphs 5 above. Payment is due within sixty days of Osceola's receipt of a letter from the Department stating the amount and deadline not met.

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**VI. PENALTY**

1. Iowa Code section 455B.191 authorizes the assessment of civil penalties of up to \$5,000.00 per day of violation for the violations involved in this matter.
2. Iowa Code section 455B.109 authorizes the Environmental Protection Commission (Commission) to establish by rule a schedule of civil penalties up to \$10,000 that may be assessed administratively. The Commission has adopted this schedule with procedures and criteria for assessment of penalties at IAC Chapter 567 - 10. Pursuant to this chapter, the DNR has determined that the most effective and efficient means of addressing the above-cited violations is the issuance of an Order with stipulated penalties. The economic benefit, gravity, and culpability considerations contained in administrative consent order No. 2010-WW-09 are hereby incorporated by reference into this Amended Order.
3. The total stipulated penalties assessed pursuant to this Order shall not exceed \$10,000. The DNR may seek the referral of this matter to the Iowa Attorney General in lieu of collecting the agreed upon stipulated penalties and may also seek such referral to address continuing noncompliance once the administrative maximum has been achieved.


**VII. WAIVER OF APPEAL RIGHTS**

This Amended Order is entered into knowingly by and with the consent of Osceola. For that reason, Osceola waives the right to appeal this Amended Order or any part thereof.

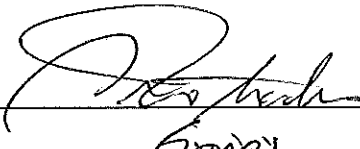
**VIII. NONCOMPLIANCE**

Failure to comply with this Amended Order may result in the imposition of administrative penalties or referral to the Attorney General to obtain injunctive relief and civil penalties pursuant to Iowa Code section 455B.191. Compliance with section V. Order, paragraphs 1 through 8, of this Order constitutes full satisfaction of all requirements pertaining to the violations described in section "IV. Conclusions of Law" of this Amended Order. The DNR reserves the right to issue a new administrative order with an administrative penalty or to seek referral to the Attorney General in lieu of collecting the agreed upon stipulated penalties established by this Order.

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CHUCK GIPP, DIRECTOR  
Iowa Department of Natural Resources

Dated this 24<sup>th</sup> day of  
March, 2014

  
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City of Osceola *(Tack)*

Dated this 18 day of  
March, 2014

NPDES #2038002; Field Office #5; Jon Tack; EPA; I.C.1

